

AMENDED IN SENATE APRIL 27, 2011

SENATE BILL

No. 42

Introduced by Senator Alquist

December 8, 2010

~~An act to add Section 1349.5 to the Health and Safety Code, relating to health care coverage. An act to add Section 14107.14 to the Welfare and Institutions Code, relating to public health.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 42, as amended, Alquist. ~~Health care service plans; shared savings agreements. Medi-Cal; contracts.~~

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law authorizes the department to enter into various types of contracts for the provision of services to beneficiaries, including contracts with managed care systems and prepaid health plans.

This bill would prohibit the department from entering into a new contract, or extending an existing contract, with an organization that the department or another state entity has determined received state funds to coordinate services for patients eligible for both Medicare and Medi-Cal pursuant to a contract and was overpaid inconsistent with, or profited from capitated payments from the state in excess of, what was authorized under the contract or state law. This bill would provide that the department may enter into a contract, or extend an existing contract, with an organization as described above if the organization

has repaid the amount of the overpayment and any penalties that have been assessed.

~~Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law requires a contract between a plan and a risk-bearing organization, as defined, to include certain provisions concerning the administrative and financial capacity of the risk-bearing organization, including a requirement that the organization file quarterly and annual financial surveys with the department.~~

~~This bill would require a person that enters into a shared savings agreement, or other risk or risk-sharing arrangement, related to the provision of health care services to file the shared savings agreement, or the agreement that forms the basis of the risk or risk-sharing arrangement, and any other documents deemed appropriate by the department, with the department for review to determine if the person is subject to the Knox-Keene Act.~~

~~Because a willful violation of this requirement would be a crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14107.14 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 14107.14. (a) If the department or another state entity
- 4 determines that an organization that received state funds to
- 5 coordinate services for patients eligible for both Medicare and
- 6 Medi-Cal pursuant to a contract was overpaid inconsistent with,
- 7 or profited from capitated payments from the state in excess of,
- 8 what was authorized under the contract or state law, the
- 9 department shall not enter into a new contract, or extend an
- 10 existing contract, with that organization.

1 **(b)** *The department may enter into a contract, or extend an*
2 *existing contract, with an organization described in subdivision*
3 *(a) if the organization has repaid the amount of the overpayment*
4 *and any penalties that have been assessed.*

5 **SECTION 1.** Section 1349.5 is added to the Health and Safety
6 Code, to read:

7 ~~1349.5. (a) A person that enters into a shared savings~~
8 ~~agreement, or other risk or risk-sharing arrangement, related to~~
9 ~~the provision of health care services shall file the shared savings~~
10 ~~agreement, or the agreement that forms the basis of the risk or~~
11 ~~risk-sharing arrangement, and any other documents deemed~~
12 ~~appropriate by the department, with the department for review to~~
13 ~~determine if the person is subject to the requirements of this~~
14 ~~chapter.~~

15 ~~(b) For purposes of this section, “a person that enters into a~~
16 ~~shared savings agreement, or other risk or risk-sharing arrangement,~~
17 ~~related to the provision of health care services” includes, but is~~
18 ~~not limited to, an accountable care organization that enters into a~~
19 ~~shared savings agreement, or other risk or risk-sharing arrangement,~~
20 ~~with the United States Secretary of Health and Human Services~~
21 ~~pursuant to Section 1899 of Title XVIII of the federal Social~~
22 ~~Security Act (42 U.S.C. Sec. 1395jjj).~~

23 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
24 ~~Section 6 of Article XIII B of the California Constitution because~~
25 ~~the only costs that may be incurred by a local agency or school~~
26 ~~district will be incurred because this act creates a new crime or~~
27 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
28 ~~for a crime or infraction, within the meaning of Section 17556 of~~
29 ~~the Government Code, or changes the definition of a crime within~~
30 ~~the meaning of Section 6 of Article XIII B of the California~~
31 ~~Constitution.~~